

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.12 of 2019

Arising Out of PS. Case No.-195 Year-2015 Thana- MOHAMMADPUR District- Gopalganj

Reyan Ahmed, S/o Munir Ahmad, Resident of Village - Piprahi, Police
Station - Uchakagaon, District - Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner	:	Mr. S.K. Lal, Sr. Advocate Mr. Javed Aslam, Advocate
For the State	:	Mr. Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 19-03-2025

The present Criminal Revision Petition has been preferred by the petitioner against the impugned judgment of conviction and the order of sentence dated 25.10.2018 passed by learned Additional District & Sessions Judge-VIIIth, Gopalganj in Cr. Appeal No. 46 of 2017 whereby learned Appellate Court has upheld the judgment of conviction and the order of sentence dated 30.05.2017 passed by learned Additional Chief Judicial Magistrate-I, Gopalganj in G.R. Case No. 695 of 2015 corresponding to Trial No. 1019 of 2017 whereby the petitioner was found guilty under Section 25(I-B)(a) and Section 26 read with Section 35 of the Arms Act and sentenced to undergo simple imprisonment for three years and fine of Rs.1,000/- each under Section 25(I-B)(a) and Section 26 read with Section 35



of the Arms Act and in case of default to pay the fine, the petitioner is directed to undergo additional simple imprisonment for three months for each fine.

2. The factual background of the case is that on the written report of the officer-in-charge, Santosh Kumar of police station Muhammadpur in the district of Gopalganj, Muhammadpur P.S. Case No. 195 of 2015 was registered on 21.11.2015 against three accused persons including the petitioner and after investigation, charge-sheet bearing no. 4 of 2016 dated 18.01.2016 was submitted against the sole petitioner keeping the investigation pending against the co-accused. Subsequently, cognizance was taken and charge was framed and trial commenced, wherein the petitioner was found guilty and even in the Criminal Appeal, the judgment of conviction and order of sentence was upheld against the petitioner. Hence, the present Criminal Revision.

3. As per the FIR, in the course of checking of vehicles, the informant, who was the S.H.O. of Muhammadpur police station, the petitioner along with the other co-accused were found to be coming on a motorcycle and after seeing the police two of them fled away and the petitioner was apprehended and searched. During the course of search, one



country made revolver of six rounds loaded with .38 bore cartridge besides one motorcycle and mobile was recovered. The motorcycle bearing registration no. 28M-5199 was also seized. The petitioner/accused failed to satisfactorily explain the possession of the seized articles. The list of the seized articles was also prepared.

4. In the course of the trial, altogether four witnesses were examined.

5. The informant Santosh Kumar, S.H.O., Muhammadpur Police Station has been examined as P.W-1. P.W-2 is Ramdeo Pandit who is the I.O. of the case. P.W-3 is Arvind Kumar Singh, who is Sergeant Major and P.W-4 is Shyam Lal Ram, who is the Sub-Inspector and he was the part of the patrolling party along with the informant, Santosh Kumar.

6. Seizure list has been marked as Ext.1. The Written Report has been marked as Ext. 2 and the Formal FIR has been marked as Ext.2/1. Confessional Statement of the petitioner has been marked as Ext.3 whereas the revolver has been marked as material Ext.-1 whereas cartridge of .38 bore has been marked as material Ext.-2. The seized mobile has been marked as material Ext.-3.

7. I heard learned counsel for the petitioner and



learned APP for the state.

8. Learned counsel for the petitioner submits that the impugned judgment is very cryptic and learned Appellate Court being the first Appellate Court should have comprehensively appreciated the whole evidence and relevant material on record, but without analyzing the evidence on record, learned Appellate Court has upheld the judgment of conviction and order of sentence passed by learned Trial Court.

9. He further submits that even learned Trial Court has not properly appreciated the evidence on record and erroneously convicted the petitioner and sentenced him accordingly, substantiating his submission, further submits that the signature of the accused on the seizure list has not been proved. Moreover, the independent witness to the seizure has not been examined. Moreover, there is no evidence that the seized articles were immediately sealed and properly kept in the *malkhana* with identification. P.W.-1, who was the informant and had seized the arms is totally silent about the sealing of the seized material and the whereabouts of the deposit of the seized arms. Hence, the very seizure of the arms and cartridges produced before the Court becomes doubtful, making serious dent into the prosecution case.



10. However, learned APP for the State defends the impugned judgment submitting that there is no illegality or infirmity in the impugned judgment or in the judgment of Trial Court. The judgment of conviction and order of sentence has been passed after proper appreciation of the evidence. The prosecution has well proved its case against the petitioner beyond all reasonable doubts. Hence, the present Revision Petition is liable to be dismissed. He also submits that in revisional jurisdiction, the Court has limited power to interfere in the finding of facts. The petitioner has been rightly convicted and properly sentenced.

11. I considered the submission advanced by both the parties and perused the material on record including the LCR.

12. I find that the witness to seizure is silent about the sealing of the seized material on the spot and regarding keeping the sealed material in safe custody. Even signature of the accused on the seizure list has not been proved. Independent witnesses to the seizure list has also not been examined. All these facts together creates doubt about the seizure of the alleged recovery of the arms from the petitioner, making serious dent into the prosecution case against him.



13. Hence, I find that without any cogent evidence, learned Trial Court has found him guilty and learned Appellate Court has also upheld the judgment of the Trial Court without application of judicial mind and appreciating the evidence.

14. Hence, I find that the impugned judgment as well as the judgment of the Trial Court are not sustainable. Accordingly, they are set aside, acquitting the petitioner of all the charges.

15. The present petition stands allowed, accordingly.

16. LCR of the case be sent back to the Court below without any delay.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.03.2025
Transmission Date	21.03.2025

